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May 28, 2019

Via Email and Electronic Filing

David W. Stark, III, Esquire
Senior Counsel
Public Service Commission of South Carolina

RE: *Noller and Halwig v. Daufuskie Island Utility Co., Inc.*
SC Public Service Commission Docket No.: 2018-364-WS

Dear Mr. Stark:

I write on behalf of the Respondent, Daufuskie Island Utility Co., Inc. ("DIUC") to briefly address the May 22, 2019, letter from Mr. Smith ("Complainants' Letter").

The Complainants have asked the Commission to award them monetary damages in excess of \$100,000. Because the Complaint and its demand for relief are beyond the Commission's statutorily prescribed jurisdiction, DIUC has asked the Commission to dismiss the Complaint for lack of jurisdiction. *See* DIUC Brief on Jurisdictional Matters, filed March 6, 2019, and DIUC Reply Brief on Jurisdictional Matters filed March 13, 2019. That position remains unchanged.

Despite the strength of its legal position, DIUC has expended a tremendous amount of resources defending this matter. After the March hearing on the jurisdictional issues DIUC also devoted further significant efforts to attempting to come to a negotiated resolution with the Complainants. As the Complainants' Letter points out, "Petitioners did not stop negotiating." I think that is an accurate assessment. DIUC was not able to meet the terms required by the Complainants, so the parties came to an impasse.

Complainants' Letter now ask the Commission to "either schedule another hearing or [an additional formal] mediation as requested" by the Complainants. DIUC has already informed the parties that it would not be productive or prudent to engage in further attempts to reach a negotiated settlement of this matter. *See* Letter from Gressette to Stark filed April 3, 2019. DIUC cannot justify committing any additional funds to negotiation. Likewise, the parties have fully presented their positions on jurisdiction to the Commission, so unless the Commission requires additional information there is no need for another costly hearing at this time.

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Pursuant to agreement among the parties the Complainants are receiving water and sewer services from DIUC. Contrary to the Letter's claim, there is no "cloud of uncertainty" upon the Complainants. There is simply a disagreement between the parties.

DIUC respectfully requests the Commission enter its determination on the jurisdictional questions briefed and recently argued. Specifically, the Commission should enter an order dismissing this matter for lack of jurisdiction.

If I may provide any additional information, please do not hesitate to contact me.

Sincerely,

/s/

Thomas P. Gressette, Jr.

cc: All parties of record